

file the date it discovered or was notified of the overpayment. The carrier that collected the charges shall then refund the amount of the overpayment to the person who paid the transportation charges or to the person that made duplicate payment within 30 days from the date of such discovery or notification.

[43 FR 41040, Sept. 14, 1978, as amended at 44 FR 66832, Nov. 21, 1979]

PART 379—PRESERVATION OF RECORDS

Sec.

379.1 Applicability.

379.3 Records required to be retained.

379.5 Protection and storage of records.

379.7 Preservation of records.

379.9 Companies going out of business.

379.11 Waiver of requirements of the regulations in this part.

379.13 Disposition and retention of records.

APPENDIX A TO PART 379—SCHEDULE OF RECORDS AND PERIODS OF RETENTION

AUTHORITY: 49 U.S.C. 13301, 14122 and 14123; and 49 CFR 1.73.

SOURCE: 62 FR 32044, June 12, 1997, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 379 appear at 66 FR 49871, Oct. 1, 2001.

§ 379.1 Applicability.

(a) The preservation of record rules contained in this part shall apply to the following:

- (1) Motor carriers and brokers;
- (2) Water carriers; and
- (3) Household goods freight forwarders.

(b) This part applies also to the preservation of accounts, records and memoranda of traffic associations, weighing and inspection bureaus, and other joint activities maintained by or on behalf of companies listed in paragraph (a) of this section.

§ 379.3 Records required to be retained.

Companies subject to this part shall retain records for the minimum retention periods provided in appendix A to this part. After the required retention periods, the records may be destroyed at the discretion of each company's management. It shall be the obligation of the subject company to maintain

records that adequately support financial and operational data required by the Secretary. The company may request a ruling from the Secretary on the retention of any record. The provisions of this part shall not be construed as excusing compliance with the lawful requirements of any other governmental body prescribing longer retention periods for any category of records.

§ 379.5 Protection and storage of records.

(a) The company shall protect records subject to this part from fires, floods, and other hazards, and safeguard the records from unnecessary exposure to deterioration from excessive humidity, dryness, or lack of ventilation.

(b) The company shall notify the Secretary if prescribed records are substantially destroyed or damaged before the term of the prescribed retention periods.

§ 379.7 Preservation of records.

(a) All records may be preserved by any technology that is immune to alteration, modification, or erasure of the underlying data and will enable production of an accurate and unaltered paper copy.

(b) Records not originally preserved on hard copy shall be accompanied by a statement executed by a person having personal knowledge of the facts indicating the type of data included within the records. One comprehensive statement may be executed in lieu of individual statements for multiple records if the type of data included in the multiple records is common to all such records. The records shall be indexed and retained in such a manner as will render them readily accessible. The company shall have facilities available to locate, identify and produce legible paper copies of the records.

(c) Any significant characteristic, feature or other attribute that a particular medium will not preserve shall be clearly indicated at the beginning of the applicable records as appropriate.

(d) The printed side of forms, such as instructions, need not be preserved for each record as long as the printed matter is common to all such forms and an

identified specimen of the form is maintained on the medium for reference.

§ 379.9 Companies going out of business.

The records referred to in the regulations in this part may be destroyed after business is discontinued and the company is completely liquidated. The records may not be destroyed until dissolution is final and all pending transactions and claims are completed. When a company is merged with another company under jurisdiction of the Secretary, the successor company shall preserve records of the merged company in accordance with the regulations in this part.

§ 379.11 Waiver of requirements of the regulations in this part.

A waiver from any provision of the regulations in this part may be made by the Secretary upon his/her own initiative or upon submission of a written request by the company. Each request

for waiver shall demonstrate that unusual circumstances warrant a departure from prescribed retention periods, procedures, or techniques, or that compliance with such prescribed requirements would impose an unreasonable burden on the company.

§ 379.13 Disposition and retention of records.

The schedule in appendix A to this part shows periods that designated records shall be preserved. The descriptions specified under the various general headings are for convenient reference and identification, and are intended to apply to the items named regardless of what the records are called in individual companies and regardless of the record media. The retention periods represent the prescribed number of years from the date of the document and not calendar years. Records not listed in appendix A to this part shall be retained as determined by the management of each company.

APPENDIX A TO PART 379—SCHEDULE OF RECORDS AND PERIODS OF RETENTION

Item and category of records	Retention period
A. Corporate and General	
1. Incorporation and reorganization:	
(a) Charter or certificate of incorporation and amendments	Note A.
(b) Legal documents related to mergers, consolidations, reorganization, receiverships and similar actions which affect the identity or organization of the company.	Note A.
2. Minutes of Directors, Executive Committees, Stockholders and other corporate meetings.	Note A.
3. Titles, franchises and authorities:	
(a) Certificates of public convenience and necessity issued by regulating bodies.	Until expiration or cancellation.
(b) Operating authorizations and exemptions to operate	Until expiration or cancellation.
(c) Copies of formal orders of regulatory bodies served upon the company	Note A.
(d) Deeds, charters, and other title papers	Until disposition of property.
(e) Patents and patent records	Note A.
4. Annual reports or statements to stockholders	3 years.
5. Contracts and agreements:	
(a) Service contracts, such as for operational management, accounting, financial or legal services, and agreements with agents.	Until expiration or termination plus 3 years.
(b) Contracts and other agreements relating to the construction, acquisition or sale of real property and equipment except as otherwise provided in (a) above.	Until expiration or termination plus 3 years.
(c) Contracts for the purchase or sale of material and supplies except as provided in (a) above.	Until expiration.
(d) Shipping contracts for transportation or caretakers of freight	Until expiration.
(e) Contracts with employees and employee bargaining groups	Until expiration.
(f) Contracts, leases and agreements, not specifically provided for in this section.	Until expiration or termination plus 1 year.
6. Accountant's auditor's, and inspector's reports:	
(a) Certifications and reports of examinations and audits conducted by public accountants.	3 years.
(b) Reports of examinations and audits conducted by internal auditors, time inspectors, and others.	3 years.
7. Other	Note A.
B. Treasury	
1. Capital stock records:	